

Serial No. 10/758,473

**REMARKS**

Claims 1-35 are currently pending in the subject application, and are presently under consideration. Claims 13-23 are allowed. Claims 1, 4-12, 24-32 and 34 are rejected. Claims 2, 3, 33 and 35 have been indicated as allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 1, 24, 29 and 33 have been amended and claims 2 and 35 have been canceled by this amendment.

Favorable reconsideration of the application is requested in view of the amendments and comments herein.

**I. Information Disclosure Statement**

Applicant notes the inadvertent omissions in the IDS filed on January 15, 2004, regarding documents 2Q, 2R, 1Q, and 1S listed on form PTO-1449. Upon further investigation, the following has been determined regarding the documents identified in the Office Action: the month and year for document 2Q are November 2000; the month and year for document 2R are May 1990; the month and year for document 1Q are March 2003; and the month and year for document 1S are November 2002.

Submitted herewith is a supplemental IDS and form PTO1449 to correct the inadvertent omissions in the IDS. Applicant respectfully requests that the references submitted herewith, which were also submitted at the time of filing, be entered into the subject application. Since each such reference was submitted at the time of filing as a part of a bona fide attempt to comply with 37 C.F.R. 1.98, no additional fees should be due. Applicant further requests additional time to enable full compliance with 37 C.F.R. 1.98 as permitted under 37 C.F.R. 1.98(f).

**II. Specification**

The Specification has been updated by this amendment to identify the related application by application serial number as suggested in the Office Action.

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**III. Rejection of Claims 1, 24-26, 28-32 under 35 U.S.C. 102(e)**

Claims 1, 24-26, 28-32 have been rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Publication No. 6,766,360 to Conway, et al. ("Conway"). Applicant traverses this rejection for the following reasons.

Applicant has amended claim 1 to incorporate the subject matter of claim 2, which the Office Action indicated as being allowable. Applicant respectfully requests allowance of amended claim 1 and dependent claims 3 to 12.

Claim 24 has been amended to recite means for determining a predicted target node for the requested data based on the first request. In contrast to claim 24, Conway teaches that read-to-share requests are issued simultaneously to a remote access cache (RAC) and to a remote home node. Conway at Col. 3, lines 8-13; Col. 6, lines 33-39. There is no teaching in Conway, however, of any structure capable of performing the determination of a predicted target node in combination with the other features of claim 24. Therefore, Conway fails to anticipate amended claim 24. Accordingly, Applicant respectfully requests reconsideration and allowance of claim 24 and dependent claims 25 to 28.

The Office Action contends that Conway inherently teaches claim 25. We respectfully disagree with this contention. Significantly, the Office Action appears to be self-contradictory in its contention that Conway inherently teaches a third request for the data by admitting in the rejection of claim 4 that Conway does not teach a third request for the data to an owner node having the cached copy of the data. See Office Action at Page 4, last paragraph. Additionally, it is well established that inherency may not be established by mere probabilities or possibilities, and mere fact that certain things may result from give set of circumstances is insufficient. *In re Robertson*, 49 USPQ2d 1949 (Fed. Cir. 1999). Applicant submits that, similar to the situation in *In re Robertson*, the means for providing a third request of claim 25 is not necessarily present in the approach shown and described in Conway. For these reasons, Conway fails to anticipate dependent claim 25. Accordingly, Applicant respectfully requests reconsideration and allowance of claim 25.

Conway also fails to anticipate 26 for reasons similar to those given in support of claim 25. Additionally, claim 26 recites that the owner node provides the coherent copy of the data in response to one of the second request and the third request. From claim 24, the second request is

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provided to the predicted target node, which implies that the owner node would be the predicted target node if it provides the coherent copy of the requested data in response to the second request. This is in sharp contrast to the RAC disclosed in Conway which cannot be an owner. See Conway, Col. 3, lines 20-22. Accordingly, Applicant respectfully requests reconsideration and allowance of claim 26.

Claim 29 has been amended to incorporate the subject matter of allowable claim 35, which was indicated as being allowable. Therefore, applicant respectfully requests reconsideration and allowance of amended claim 29 and dependent claims 30, 31, 32 and 34.

Additionally, claim 30 is patentable for at least the same reasons discussed above with respect to claim 25. Claim 31 is patentable for reasons similar to those discussed with respect to claim 26, as the RAC would not provide a coherent copy of requested data if the data is in the exclusive state. Moreover, as discussed above, Conway teaches that a request is sent to the RAC and to the directory, which is contrast to the circumstances of claims 31 and 32 which imply that the owner node receives both the second request and the third request. Accordingly, applicant requests reconsideration and allowance of claims 30, 31 and 32.

#### IV. Rejection of Claims 4-6, 8-9, 12 under 35 U.S.C. 103(a)

Claims 4-6, 8-9, 12 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Conway and in view of a publication by Jim Handy entitled, "The Cache Memory Book" ("Handy"). Applicant traverses this rejection for the following reasons.

Claims 4-6, 8-9, 12 depend from amended claim 1, which includes allowable claim 2, such that claims 4-6, 8-9, 12 are also allowable. Additionally, the Office Action admits that Conway fails to teach a third request for the data to an owner node having the cached copy of the data. Then the Office Action contends Conway in view of Handy teaches claim 4. Handy fails to cure the deficiencies of Conway discussed above with respect to claim 1 and further fails to provide proper motivation to combine the teachings of Handy with the approach in Conway to provide the system of claim 4. Accordingly, Applicant respectfully requests reconsideration and allowance of claim 4. Reconsideration and allowance of claims 4-6, 8-9, 12 are respectfully requested.

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**V. Rejection of Claim 7 under U.S.C. 103(a)**

Claim 7 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Conway and in view of Handy and further in view of U.S. Patent Publication No. 6,523,138 to Natsume et al. ("Natsume"). Applicant traverses this rejection for the following reasons.

Claim 7 depends from amended claim 1 and is patentable for at least the same reasons as claim 1. Additionally, Natsume fails to cure the admitted deficiencies of Conway relative to claims 4 and 7 as well as fails to teach or suggest what is recited in claim 7. For example, Natsume fails to teach or suggest that both the second request and third request, as recited in claim 7, would be provided in a forward channel whereas the first request is provided in a request channel. Accordingly, Applicant respectfully requests reconsideration and allowance of claim 7.

**VI. Rejection of Claims 10 and 11 under U.S.C. 103(a)**

Claims 10 and 11 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Conway and in view of Handy and further in view of U.S. Patent Publication No. 6,961,827 to Shanahan et. al. ("Shanahan"). Applicant traverses this rejection for the following reasons.

Claims 10 and 11 depend from amended claim 1 and from claims 4 and 9 and, therefore, are patentable for at least the same reasons as these claims. Additionally, Shanahan fails to cure the deficiencies of Conway and Handy relative to claims 1, 4 and 9, including deficiencies discussed herein as well as those deficiencies admitted in the Office Action. Moreover, in contrast to the contention in the Office Action, Shanahan fails to teach or suggest that a home node provides a speculation acknowledgement to the requesting node in response to the victim message from the owner node, as recited in claim 10. Accordingly, Applicant respectfully requests reconsideration and allowance of claim 10.

Regarding claim 11, Conway, Handy and Shanahan, taken individually or in combination, fail to teach or suggest a victim message to the home node in response to a third request arriving at the owner node prior to the second request. Therefore claim 11 is patentable over the prior art cited in the Office Action and its allowance is respectfully requested.

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**VII. Rejection of Claims 27 and 34 under U.S.C. 103(a)**

Claims 27 and 34 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Conway in view of Shanahan. Applicant traverses this rejection for the following reasons.

Claim 27 depends from amended claim 24 as well as claims 25 and 26 and claim 34 depends from amended claim 29, such that each of these claims are patentable for at least the same reasons as the claims from which they depend. Claims 27 and 34 are further patentable over Conway in view of Shanahan for reasons similar to the reasons given in support of claims 9, 10, and 26. Applicant respectfully requests reconsideration and allowance of claims 27 and 34.

**VIII. Allowable Subject Matter**

Applicant appreciates the indication that claims 13-23 have been allowed and that claims 2, 3, 33, and 35 are objected to as being dependent upon a rejected base claims, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In accordance with the suggestion in the Office Action, claim 2 has been incorporated into claim 1, claim 33 has been rewritten in independent form and claim 35 has been incorporated into claim 29. Allowance of amended claims 1, 33 and 29 and claims depending from these amended claims is respectfully requested.

**IX. CONCLUSION**

In view of the foregoing remarks, Applicant respectfully submits that the present application is in condition for allowance. Applicant respectfully requests reconsideration of this application and that the application be passed to issue.

Should the Examiner have any questions concerning this paper, the Examiner is invited and encouraged to contact Applicant's undersigned attorney at (216) 621-2234, Ext. 106.

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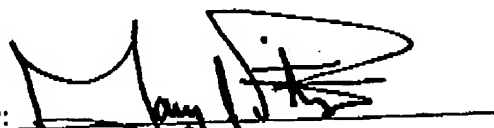
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**MAR 22 2007**

Fees of \$200.00 for one additional independent claim have been requested to be deducted from Applicant's deposit account on the fee transmittal paper submitted herewith. No additional fees should be due for this response. The Commissioner is authorized to charge any additional fees and to credit any overpayment to Deposit Account No. 08-2025.

Respectfully submitted,

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